

## **REMARKS**

### ***Pending claims***

Claims 16-46 are canceled as being drawn to a non-elected invention without prejudice to filing a divisional application containing the same. Claims 5-6 and 10-15 to a non-elected species are withdrawn through this Amendment. Claims 1 and 8 has been amended to more clearly point out and distinctly claim the invention. Seven (7) claims (claims 1-4 and 7-9) remain pending in this application through this Amendment.

### ***Election***

Applicants hereby confirm that Applicants have elected without traverse to prosecute the invention of Group I, claims 1-15, wherein the elected species are the PVA represented by formula I and modifier (iia), N-vinyl lactam copolymer modifier.

### ***Claim Rejection under 35 USC §112***

Rejection under 35 USC §112, second paragraph, of claim 8 has been overcome by the amendment of this claim.

### ***Claim Rejection under 35 USC §102***

Claims 1-4 and 7-9 were rejected under 35 U.S.C 102 (b) as being anticipated by Müller (US Pat. No. 6,303,687). For the following reasons, the Examiner's rejection is respectfully traversed.

Applicants submit that Müller does not teach each and every of the claimed elements of the present invention. Müller does not disclose nor suggest anything about a modifier (a material) which is a material different from but miscible with the water-soluble polyvinyl alcohol and present in the polymerizable material in an amount sufficient to improve one or more physical properties of the ophthalmic device made from the polymerizable material. Müller disclose the use of **modifier units** (col. 5, line 52-54). Those modifier units taught by Müller is integral parts of a water-soluble polyvinyl alcohol (material (a)). They are not a modifier defined by Applicants. According to Applicants, a modifier is a material which is not integral parts of a water-soluble polyvinyl alcohol but is a different material miscible with the water-soluble polyvinyl alcohol. Moreover, Müller does not disclose nor suggest anything about a modifier (Material (b)) which is selected from the group consisting of **nanoparticles** having a hydrophilic surface, **a copolymer** having hydrophobic groups or units for imparting at least one desired physical property to said ophthalmic device and hydrophilic groups or

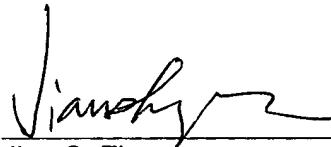
units in an amount sufficient to render the copolymer miscible with the polyvinyl alcohol, and mixtures thereof. As such, Applicants respectfully submit that Claims 1-4 and 7-9 are not anticipated by this reference and respectfully request withdrawal of this rejection.

### **CONCLUSION**

In view of the foregoing and in conclusion, Applicants submit that the pending claims are now in conditions for allowance. Applicants request reconsideration and withdrawal of the rejections set-forth in the Office Action. Applicants further request consideration of claims 5-6 and 10-15 to additional species which are written in dependent form, the generic claims upon which they depend are allowable.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. Please address all correspondence to Robert Gorman, CIBA Vision, Patent Department, 11460 Johns Creek Parkway, Duluth, GA 30097. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,



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